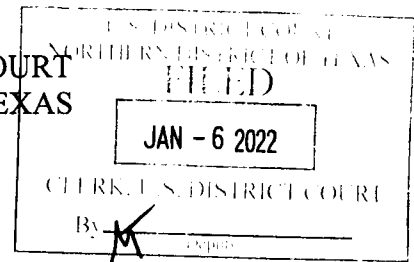


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



JOHN KEITH LUSK,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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2:19-CV-204-Z-BR

ORDER

On December 6, 2021 the United States Magistrate Judge entered a findings, conclusions, and recommendation ("FCR") to dismiss the Petition for a Writ of Habeas Corpus filed by John Keith Lusk ("Petitioner") (ECF No. 26). Petitioner filed objections to the FCR (ECF No. 27). After making an independent review of the pleadings, files, and records in this case, as well as Petitioner's objections, the Court **ORDERS** that Petitioner's objections are **OVERRULED** and the FCR of the Magistrate Judge is **ADOPTED**. The Petition for a Writ of Habeas Corpus is dismissed **WITH PREJUDICE** as time barred.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability, because Petitioner has failed to make "a substantial showing of the denial of a constitutional right." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also Hernandez v. Thaler*, 630 F.3d 420, 424 (5th Cir. 2011).

The Court **ADOPTS** and **INCORPORATES** by reference the Magistrate Judge's FCR filed in this case in support of its finding that Petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2)

that reasonable jurists would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this Court] was correct in its procedural ruling.” *Slack*, 529 U.S. at 484.

If Petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* on appeal.

SO ORDERED.

January 6, 2022.



MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE